



ACS Submission to CLG Select Committee Inquiry: Operation of the National Planning Policy Framework

Introduction

1. ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Communities and Local Government Select Committee's Inquiry in to the *Operation of the National Planning Policy Framework*. ACS represents 33,500 local shops across the country trading in a variety of locations such as town centres, suburban parades and rural villages.
2. 'Town Centre First' planning policy is one of the most important elements of national planning policy for our members, for small store and entrepreneurs generally, and for diverse, vibrant high streets that can create and sustain jobs and investment, directing new retail, leisure and office developments into town centres. These large developments are an important anchor for town centres driving footfall and creating a diverse and sustainable environment for all businesses, large and small, to trade, and make town centres viable.
3. A strong town centre first policy is key to delivering sustainable town centre retail developments and curbing quick and easy out of town developments that can be detrimental to town centres. 'Town Centre First' planning has been supported by successive Governments and has been the central pillar of retail planning over the past 20 years.
4. ACS supported the Government's approach to the streamlining of the NPPF and the strong references to town centres in section 23 to 27 of the NPPF. Having a strong policy statement is only meaningful if it is enforced at local and national level – this is where the operation of the NPPF is lacking real cut through and has failed town centres. We have communicated these concerns directly to Ministers at the Department for Communities and Local Government directly and placed the issue at the forefront of our work with the Government's Future High Streets Forum¹.
5. We are clear that action is needed from Government to make the NPPF work more effectively to deliver new developments in town centres. Specifically we ask the Committee to recommend that Ministers:
 - a. Support local authorities to deliver the objectives of national planning through their own decision making, both when they are setting the local development priorities and in the development control decisions they make.
 - b. Set the direction of national policy with the appropriate use of call-in powers to ensure that decisions made at the local level are consistent with the National Planning Policy Framework.
 - c. Introduce a central monitoring framework for the 'town centre first' planning policy with live quarterly tables (similar to homelessness and local government finance

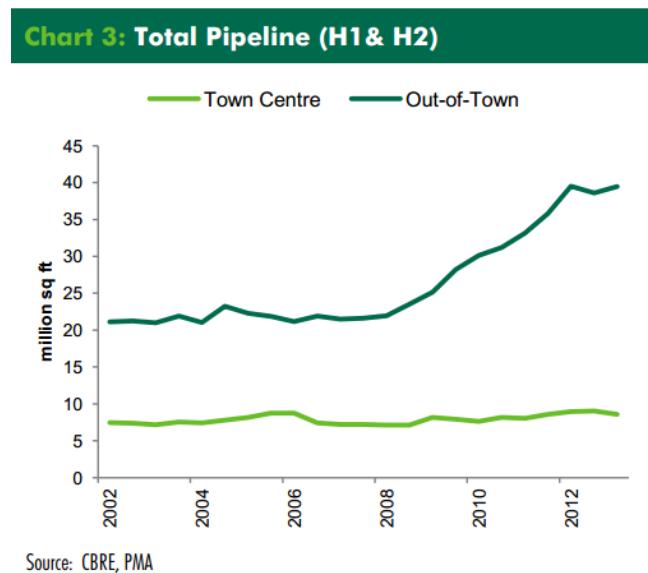
¹ See annex A: Future High Street Forum Task and Finish II Recommendations

statistics) that show where new development achieving planning approval is being located.

- d. Establish a clear framework to be used by Ministers in interpreting what town centre related developments should be considered for call-in and how they will be determined against the policy.
- e. Publish a Letter to Chief Planning Officers on the interpretation of town centre first planning policy. The letter should make clear that town centre first is a national planning priority and out of town development involving town centre uses, which are not provided for in the Local Plan, should be tested rigorously against the town centre first policies in the NPPF and the Local Plan.
- f. Provide further training and advice to local authorities on how to use new and existing tools (such as powers provided by the Localism Act 2012) to provide new attractive investment opportunities for retailers in town centres.

State of Play

- 6. Despite successive government support for town centre first planning policy the effectiveness of the policy has been slowly eroded over time. The trend in out of town developments compared with in town development clearly reflects the continued march of out of town retail development. The graph below shows the growth in out of town development compared to in town developments from December 2013.



2

- 7. Out of town retail developments currently account for 82.1% of the total grocery market development pipeline and in town developments account for 17.8%³. If the NPPF was working effectively we would expect the number of in town developments proposed to be much higher and as a result out of town developments much lower.

² [UK Grocery Market Outlets in the Pipeline December 2013](#)

³ [UK Grocery Market Outlets in the Pipeline December 2013 pg 4](#)

8. From a developer's perspective it is cheaper and easier to develop out of town. The only way that this trend can be overcome is through enforcement of planning policy and proactive identification of development space in town by local authorities.
9. The grocery pipeline figures show that only 3.51 million square feet of retail developments are under construction. Where out of town developments are approved but not under construction they act as a significant barrier to investment in town centres. Therefore we enter the worst of both worlds – an out of town development is given approval but not being built, but still blocks all in town developments.
10. ACS is aware of tactics used by developers to prolong the period during which they could develop a site after the planning committee has made its judgement. We understand that paperwork can be slowed down by the developer so that the final date on which the application is granted is delayed. This may relate to finalising section 106 agreements with the local authority. The effect of such delays is to further discourage investment in town centres close to the proposed development, while the new site is itself offering no jobs or growth opportunities. We are concerned that a number of developments granted since the introduction of NPPF may never be built, or will be delayed for far longer than intended by the planning system.
11. A developer looking to invest in a town centre would not consider taking on a regeneration project with the prospect of a large food or non-food out of town development. The impact of town centre first policy not being enforced has serious consequences for preventing future in town development.
12. The trend in out of town development is not solely a failing of the town centre first planning policy but also market trends. The economic circumstances have made the risk of development in town centres a greater as the retail market has contracted. However, this should incentivise local and national governments to be more prescriptive with their approach to town centre first policy forcing developers to rethink their applications to fit a town centres and communities need instead of local authorities accepting the developers rigid out of town shed format.

NPPF In Practice

13. To further understand the effectiveness of the NPPF in delivering town centre investment, ACS commissioned independent research called '*Retail Planning Decisions Under the NPPF*'⁴. This report looks specifically at how effectively the NPPF has dealt with 'major retail developments' that qualify for town centre first tests since the introduction of the NPPF. The research looked at 50 case studies from 157 planning authorities in England (excluding inner London)⁵. This sample represents almost exactly half of all planning authorities in England.
14. The key findings from the research are:
 - a. 76% of the new retail floor space given planning approval since the new national planning laws came into force is located outside of town centres

⁴ [Retail Planning Decisions Under the NPPF 2013](#)

⁵ [Retail Planning Decisions Under the NPPF 2013 - Full Methodology Annex A](#)

- b. Only 7 out of the 50 applications (14%) were refused planning permission – of which 3 were refused because there was a competing similar proposal in the same town which was preferred
 - c. Of the 43 developments permitted, 5 were in town centres (12%), 7 were edge of centre (16%) and 31 were out of town (72%)
15. These figures clearly show that across a robust sample of major retail developments approved under the NPPF have not been effectively driven in to town centres. There were a number of elements that have contributed to this trend identified in the report, as set out below.

Applications are Advocacy

- 16. Retail Impact Assessments supporting planning applications are advocacy documents, despite their objective language and use of extensive quantitative analysis. Each application subjected to independent scrutiny (67%) directed by the Local Planning Authority looking at the impact on town centres and existing businesses were universally criticised. This brings into the question the value and validity of the impact assessment for major retail developments.
- 17. The Committee should consider how better provision of information can be provided to local authorities to assess the impact of new retail developments on town centres in short, medium and long term. Developers could be asked to fund independent assessment of their planning application removing costs from local planning authorities and greater objectivity.

Sequential Test Lacks Teeth

- 18. The sequential test lacks teeth, being a mainly qualitative assessment. Developers are now widely applying a format-driven approach to applying it – with some flexibility as to scale but little as to retail format. This means that developers were willing to consider downsizing the size of the store to fit a different location but not format for example the inclusion of a large surface car park would exclude it from sequentially preferable sites.
- 19. The Committee should consider if the Government could provide more clarity on the Dundee case and North Lincolnshire case that have been used by developers as precedent for their format driven approach. The Government's existing supporting guidance to the NPPF does not provide enough clarity on this point.

Gateway Tests

- 20. Decision-taking by Local Planning Authorities was always on the basis of a balanced judgement of the pros and cons of the proposed development. The sequential and impact tests in the NPPF are not being applied as pass or fail 'gateway' tests, but as only two of the factors to be taken into account in arriving at a balanced judgement on the application. Where these test are not applied as gateway tests the Government should intervene.

Development Plans are Frequently Inadequate

- 21. Local plans were found to be out of date or silent on the types of retail developments in question , and/or lack sufficient policies or sufficient detail to give a clear indication of what the decision indicated by the Plan should be. Officers therefore have to interpret the Plan,

and assess the degree to which the proposed development would comply with each of its policies. They also have to interpret and apply the NPPF, particularly where the Development Plan is silent or out-of-date. This introduces considerable uncertainty into the process; and flexibility for Officers to interpret the application's compliance with the Plan in whatever way best suits the Council's current agenda.

22. The Committee should consider how better support, through both funding and long term strategic planning, can be given to local authorities to account for new retail developments. ACS has developed guidance⁶ to support retailers and local authorities to shape their local plans and support the high street.

Conclusion

23. ACS believes the policy as expressed in NPPF is correct, but that its application is incorrect. Without consistent enforcement we jeopardise the future sustainability of town centres and the communities they serve.

For further information on this submission please contact Edward Woodall, ACS Public Affairs Manager: Edward.woodall@acs.org.uk or 01252 533014.

⁶ [ACS guidance: 'Planning for Diverse Local Centres'](#)

ANNEX A

Future High Street Forum Task and Finish Group II

Priority Actions

This paper sets out the priority actions identified by Future High Streets Forum Task and Finish Group II. It is based on discussions and research undertaken by the group over the past four months. They were agreed by the group at a series of meeting up to 13th December 2013.

This paper sets out the policy actions of the Group in six areas:

Business Rates

Action 1 – Develop a bespoke advice document showcasing best practice in the use of discretionary rate relief and disseminate it via a national, and/or series of regional meetings, bringing together local authorities and businesses

Action 2 – Establish an independent review to examine the current economic and social impact on non-domestic rates and consider options for reform, with a view to developing a new system in time for the 2017 revaluation.

High Streets as 'Infrastructure'

Action 3 – Allow high streets to be identified as infrastructure and included in the 'National Infrastructure Plan' and encourage Local Enterprise Partnerships are identify high street growth as a strategic priority; encourage Councils, LEPS and other local partnerships to bid for funding for transformational high street investment projects via opportunities such as the Single Local Growth Fund, and/or Local Infrastructure Fund.

Car Parking

Action 4 – Building on the Government's current consultation to review and prepare new guidance on the financial regulation of parking to clarify hypothecated use of income from on-street and off-street fees and fines; neutralise any differences in the way the rating system is applied to in-town and out-of-town car parks; and apply the concept of 'connected value' between parking and other commercial interests and assets

Action 5 – To meet the Government's and wider stakeholder aim of ensuring that parking strategies complement and enhance the attractiveness of our high streets and town centres, establish a voluntary, national system for benchmarking of car park provision in towns using key performance indicators covering quality, quantity and cost to facilitate local resolution of car parking issues between communities, businesses and councils

Action 6 - To enable greater responsiveness from public parking providers, review the consultation procedure for public bodies wanting to alter car parking charges to ensure it encourages flexibility and the take up of new technology and modern payment methods.

Identifying Landlords

Action 7 - Develop guidance that can be made available via CLG, industry associations and local authorities that helps people to understand how to go about identifying landlords

Action 8 - Create a new legal duty on LAs to assist local high street organisations (including Town teams, town centre management companies and neighbourhood forums) in identifying landlords for the purposes of high street improvement activity.

Joint Ownership Models for Town Centre Property

Action 9 - Establish an expert working group to advise on the best way to establishing a local property vehicle to own and manage properties in the High Street, including fiscal incentives (High Street Property Company)

Action 10 - Investigate setting up a new Investment Fund supported by Financial Institutions and public funds to provide loans to the local property vehicles (High Street Investment Fund)

Planning

Action 11 - Introduce a central monitoring framework for the 'town centre first' planning policy with live quarterly tables (similar to homelessness and local government finance statistics) that show where new development achieving planning approval is being located. Establish a clear framework to be used by Ministers in interpreting what town centre related developments should be considered for call-in and how they will be determined against the policy.

Action 12 – Publish a Letter to Chief Planning Officers on interpretation of town centre first planning policy. The letter should make clear that town centre first is a national planning priority and out of town development involving town centre uses, which are not provided for in the Local Plan, should be tested rigorously against the town centre first policies in the NPPF and the Local Plan.

The Forum is asked to consider these recommendations and agree how they will be progressed.